



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 34050320

Date: OCT. 25, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a professor of forensic entomology, the study of insects on corpses to help solve crimes. He requests his classification under the employment-based, first-preference immigrant visa category as a noncitizen with “exceptional ability.” *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate “sustained national or international acclaim” and extensively document recognition of their achievements in their fields. *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met one initial evidentiary criterion – two less than needed for a final merits determination. On appeal, the Petitioner contends that the Director overlooked evidence regarding:

- The Petitioner’s receipt of nationally or internationally recognized awards;
- His membership in associations requiring outstanding achievements;
- Published materials about him and his work;
- His original contributions of major significance in his field;
- His authorship of scholarly articles in the field; and
- His performance in a leading or critical role for outstanding organizations.

8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), (vi), (viii).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he met the evidentiary criterion regarding authorship of scholarly articles in his field. But, because he has not satisfied the requisite number of evidentiary requirements, we will dismiss the appeal.

I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act. The term “extraordinary ability” means expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

Evidence of extraordinary ability must initially demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).¹ If a petitioner meets either standard, USCIS must then make a final merits determination as to whether the record, as a whole, establishes their sustained national or international acclaim and recognized achievements placing them among the small percentage at their field’s very top. *Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (providing a two-step analysis to adjudicate extraordinary ability petitions)²; see generally 6 *USCIS Policy Manual* F.(2)(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. Facts and Procedural History

The record shows that the Petitioner, an Egyptian native and citizen, attended a university in his home country, earning a bachelor of science degree in zoology and master’s and doctoral degrees in entomology. He has since worked as an assistant/associate professor at universities in Egypt, Saudi Arabia, Lebanon, and the United States.

The Petitioner states that he introduced a molecular entomological approach using mitochondrial DNA sequence data to identify forensically important insects. Scientists then use the insects’ developmental larval stages in carcasses to estimate times and causes of death, and changes in corpses’ positions.

The Petitioner has about 30 years’ experience in the U.S., Lebanese, and Egyptian judicial systems as a forensic entomology expert. His most recent research includes applying “maggot therapy” to treat venous and diabetic ulcers. He states his intention to continue working in his field in the United States and claims “a flood of job offers” from U.S. universities.

¹ If an evidentiary criterion does not “readily apply” to a petitioner’s occupation, they may submit “comparable evidence” to establish eligibility. 8 C.F.R. § 204.5(h)(4).

² Because the United States Court of Appeals for the Ninth Circuit has jurisdiction over the Petitioner’s residence, we must generally follow the court’s precedent decisions involving the same or similar issues. See *Jama v. Immigr. & Customs Enf’t*, 543 U.S. 335, 350 n.10 (2005).

The record does not indicate – nor does the Petitioner claim – his receipt of a major internationally recognized award. He must therefore meet at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director’s finding that he satisfied one evidentiary requirement by submitting proof of his performance as a judge of others’ work in his field. *See* 8 C.F.R. § 204.5(h)(3)(iv). We will next review the additional evidentiary criteria he claims to have met.³

B. Lesser National or International Awards

This criterion requires “[d]ocumentation of the [noncitizen]’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.” 8 C.F.R. § 204.5(h)(3)(i).

When adjudicating this requirement, USCIS first determines whether a petitioner – as opposed, for example, to their employer – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). The Agency then determines whether an award garnered national or international recognition and rewarded excellence in the field of endeavor. *Id.* Relevant considerations include: criteria used to grant awards; the awards’ national or international significance; the number of awardees; and limitations on competitors. *Id.*

The Petitioner contends that he met this criterion by submitting evidence of his 1996 receipt of an Egyptian scholarship to continue his doctoral studies in the United States. He describes his scholarship as “one of the highest honors in my field” and states that he received it for his “exceptional skills and academic prowess in forensic entomology.” He states that, like other awards or prizes, his scholarship represents a “professional milestone recognized and celebrated in academic circles.”

The Director found the evidence insufficient because it indicates that only doctoral students competed for the scholarship, excluding more experienced forensic entomologists. A letter from the general director of the Egyptian ministry that issued the scholarship confirms the limitation, stating: “Students [eligible for the grant] must have a strong academic record and be registered in a Ph.D. program at a university in Egypt.”⁴

Under USCIS policy, however, “there is no specific requirement that an award be open to all members of the field, including the most experienced.” 6 *USCIS Policy Manual* F.(2)(B)(1). We will therefore withdraw the Director’s finding. We need not reverse the finding or remand the matter, however, as the Petitioner has not met this criterion for other reasons. *See Massachusetts Trs. of E. Gas & Fuel Assocs. v. United States*, 377 U.S. 235, 248 (1964) (applying the harmless-error rule “when a mistake of the administrative body is one that clearly had no bearing on the procedure used or the substance

³ We will not consider additional evidence that the Petitioner submits on appeal. The record shows that, before the petition’s denial, he had a chance to submit the materials in response to the Director’s request for additional evidence. *See* 8 C.F.R. § 103.2(b)(11) (requiring the submission of all requested evidence together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence on appeal because “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial”).

⁴ The letter also states: “Applicants must have a well-prepared thesis proposal.”

of the decision reached”); *see generally Matter of O-R-E-*, 28 I&N Dec. 330, 350 n.5 (BIA 2021) (citing cases regarding harmless or scrivener’s errors).

First, the record lacks sufficient evidence that the Petitioner’s scholarship received national or international recognition. He and the Egyptian ministry’s general director described the grant as “prestigious.” Also, a U.S. university professor of biology and forensic entomology stated: “This scholarship not only reflects his academic excellence but also demonstrates national recognition of his . . . contribution to the field of forensic entomology.” But the record lacks sufficient independent, objective evidence corroborating the scholarship’s purported recognition. *See Visinscaia v. Beers*, 4 F.Supp.3d 126, 136 (D.D.C. 2013) (“Without evidence of how a larger audience viewed [a petitioner’s] awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.”) The scholarship’s issuance by a national ministry does not automatically prove the grant’s receipt of national recognition. The record does not show, for example, that the Petitioner received the scholarship publicly or that news or professional organizations reported the grant’s issuance.

Second, the Petitioner has not demonstrated the scholarship’s issuance “in the field of endeavor.” *See* 8 C.F.R. § 204.5(h)(3)(i). His academic records presumably showed that he studied entomology. But the record indicates that he competed for the grant with Egyptian doctoral students in other fields. The letter from the Egyptian ministry’s general director does not state that the ministry limits the scholarship’s availability to students who have studied entomology.

For the foregoing reasons, the Petitioner’s scholarship does not meet the parameters of the evidentiary requirement at 8 C.F.R. § 204.5(h)(3)(i). We will therefore affirm the Director’s finding.

C. Membership in Associations

This criterion requires “[d]ocumentation of the [noncitizen]’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” 8 C.F.R. § 204.5(h)(3)(ii). If an association has multiple levels of membership, a petitioner must show that, to obtain their membership level, recognized national or international experts judged them to have made outstanding achievements in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1).

The Petitioner provided evidence of his membership in various Egyptian scientific associations. As the Director found, however, the materials do not demonstrate that these associations require outstanding achievements of their members or judgments by recognized national or international experts.

On appeal, the Petitioner states his membership in one of the associations since 2007. He states the group’s affiliation with a larger international organization granting membership to those “who have made a notable contribution to forensic and legal medicine through practice, research, or training.” He previously provided copies of printouts from the international association’s website.

The Petitioner’s proof, however, does not meet all aspects of this evidentiary criteria. We have reviewed the international association’s website. Its “Membership Criteria” section, which the

Petitioner's evidence omitted, states that the organization can elect "Judges, Coroners, Policemen, Lawyers, Forensic scientists, Physicians, Forensic Pathologists and toxicologists" to one of three membership levels: "Fellowship;" "Foundation Member;" or "Affiliate Member." Consistent with the Petitioner's statement, the website describes fellowship and foundation members as those "who have made a notable contribution to forensic and legal medicine through practice, research, or training." But the record does not indicate the Petitioner's membership level in the association. If he is an affiliate member, evidence indicates that the organization would not have required him to have made a notable contribution in the forensic entomology field. Also, he has not demonstrated that "a notable contribution" meets this criterion's standard for "outstanding achievements."

Further, even if the Petitioner has fellowship or foundation membership and the association's requirement for a notable contribution meets this criterion's requirement for outstanding achievements, neither the association's website nor the record demonstrates that recognized national or international experts judge the group's membership candidates.

Thus, the Petitioner has not satisfied this evidentiary criterion. We will therefore affirm the Director's finding.

D. Published Material about the Petitioner

To meet this requirement, a petitioner must submit copies of "[p]ublished material about [themselves] in professional or major trade publications or other major media, relating to [their] work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this criterion, USCIS first determines whether published material relates to a petitioner and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). The material need not exclusively focus on a petitioner and their work. *Id.* "[P]ublished material that covers a broader topic but includes a substantial discussion of the person's work in the field and mentions the person in connection to the work may" suffice. *Id.* USCIS may also consider "material that focuses solely or primarily on work or research being undertaken by a team of which the person is a member, provided that the material mentions the person in connection with the work or other evidence in the record documents the person's significant role in the work or research." *Id.*

The Agency then determines whether a publication qualifies as a professional or major trade publication, or major media. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). When evaluating publications and media, relevant factors include: for professional and major trade publications, the intended audience; and, for major trade publications and other major media, the relative circulation, readership, or viewership. *Id.*

The Petitioner provided online research profiles of himself and copies of articles citing work he co-authored. He also provided a document indicating his appearance on a podcast episode called [REDACTED] [REDACTED] which a Lebanese radio station recorded.

As the Director found, none of the evidence indicates that the articles or podcast included a "substantial discussion" of the Petitioner and his work in his field. The articles merely cite – in footnotes and

endnotes without further discussion – articles that he co-authored. Also, contrary to USCIS policy, the record lacks a transcript of the podcast episode. *See* 6 *USCIS Policy Manual* F.(2)(B)(1) (“Evidence may include . . . a transcript of professional or major audio or video coverage of the person and the person’s work.”) The evidence therefore does not demonstrate that these publications substantially discussed the Petitioner and his work.

As the Director also found, the record lacks evidence that the articles and podcast qualify as “professional or major trade publications, or other major media.” *See* 8 C.F.R. § 204.5(h)(3)(iii). The Petitioner did not submit information about the publications’ intended audiences or relative circulations, readerships, or viewership.

On appeal, the Petitioner claims his inability to obtain a podcast transcript. He states that the episode was “recorded as audio” and contains a mix of the Arabic and English languages.

Lacking corroboration, however, the Petitioner’s statement does not sufficiently demonstrate the unavailability of a podcast transcript and a required certified translation of any Arabic language in it. *See* 8 C.F.R. § 103.2(b)(3). The Petitioner also has not established the unavailability of other evidence of the podcast episode, such as statements or declarations from its host or radio station employees who recorded it. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (holding that a petitioner bears the burden of demonstrating eligibility for a requested benefit).

For the foregoing reasons, the Petitioner has not submitted evidence of published material about himself in professional or major trade publications or other major media, relating to his work in his field. We will therefore affirm the Director’s finding.

E. Original Contributions of Major Significance

This criterion requires “[e]vidence of the [noncitizen]’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.” 8 C.F.R. § 204.5(h)(3)(v).

USCIS first determines whether a petitioner made original contributions in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). The Agency then examines whether the original contributions are of major significance to the field. *Id.*

The Petitioner claims that his research includes original, scholarly contributions of major significance to the forensic entomology field. He provided copies of articles he co-authored, evidence of others’ citations to his articles, and letters from both independent experts and scientists who have taught, worked with, or studied with him.

Letters describe the Petitioner’s research as “pioneering” and “groundbreaking.” But, as the Director found, they “fail[] to illustrate how any one of [his] articles are considered to be of major significance in the field.” The Petitioner claims that his work “has led to substantial advancements and has been widely cited by experts in the relevant domain.” But evidence must include more than conclusory statements. “Submitted letters should specifically describe the person’s contribution and its significance to the field.” 6 *USCIS Policy Manual* F.(2)(B)(1). The letters on the Petitioner’s behalf cite his research, for example, on mitochondrial DNA-based identification of forensically important

insects. But the letters do not explain the work's significance or how it advances the forensic entomology field. *Id.* ("Letters that merely . . . make general and expansive statements regarding [a petitioner and their] accomplishments are generally not persuasive.")

The Petitioner has not demonstrated that his original, scholarly research constitutes a contribution of major significance in his field. We will therefore affirm the Director's finding regarding this evidentiary requirement.

F. Authorship of Scholarly Articles

To meet this criterion, a petitioner must submit "[e]vidence of [their] authorship of scholarly articles in the field, in professional or major trade publications or other major media." 8 C.F.R. § 204.5(h)(3)(vi).

When adjudicating this requirement, USCIS first determines whether a petitioner has authored scholarly articles in the field. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). A scholarly article reports on original research, experimentation, or philosophical discourse and is written by a researcher or expert in the field. *Id.* Scholarly articles also generally undergo peer review by other experts in the field of specialization. *Id.*

The Agency next determines whether a publication qualifies as a professional, major trade, or major media publication. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). In evaluating publications and media, relevant factors include: for professional journals or major trade publications, the intended audience; and, for major media, the circulation, readership, or viewership relative to other media in the field. *Id.*

The record supports the Director's finding that the Petitioner has co-authored at least nine scholarly articles. But the Director found insufficient evidence that they appeared in professional or major trade publications, or other major media.

As the Director found, the record contains little information about the journals that published the Petitioner's articles. But copies of abstracts of his articles, his research profiles, articles citing his work, and letters on his behalf sufficiently demonstrate his articles' publications in professional journals in his field. For example, one independent expert, a vice president at a U.S. university division of agriculture, life, and veterinary sciences, stated that the Petitioner "has to his credit several publications in leading journals, pertinent to his field of endeavor."

A preponderance of the evidence demonstrates the Petitioner's authorship of scholarly articles in professional publications in his field. Thus, we will withdraw the Director's contrary finding.

G. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit "[e]vidence that [they have] performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or its division or department. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). A leading role means that a petitioner is or was a leader within an organization. *Id.* In contrast, a critical role indicates that a petitioner “contributed in a way that is of significant importance to the outcome of the [relevant] organization’s . . . activities.” *Id.*

USCIS then determines whether an organization has a distinguished reputation. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). Relevant factors include not only an organization’s relative size and longevity but also the scale of its customer base and relevant media coverage. *Id.*

The Petitioner contends that he has performed in leading/critical roles as a researcher and educator for various universities around the world. The Director found insufficient evidence of both his claimed leading/critical roles and the purported distinguished reputations of the universities.

Contrary to the Director’s finding, a preponderance of the evidence shows that the Petitioner performed in critical roles for universities in Egypt and Lebanon by developing their forensic entomology departments. For example, he has served as the sole assistant professor in the Egyptian university’s forensic entomology department since its establishment in 2005. A letter from the school’s acting dean of faculty states that the Petitioner’s “exceptional expertise and dedication to his field were foundational in the university’s decision to establish the forensic entomology program.” The letter states that the program’s growth and development under the Petitioner’s supervision led a Brazilian university to agree to exchange knowledge and resources with the Egyptian school. The letter states that the Petitioner has also consulted on high-profile, criminal cases in Egypt. The acting dean stated: “His work has not only brought honor to [the university] but has also positioned Egypt as a hub of forensic science expertise in the region.”

We agree with the Director, however, that the Petitioner has not sufficiently demonstrated the purported distinguished reputations of the Egyptian and Lebanese universities. The word “distinguished” means “marked by eminence, distinction, or excellence” or “befitting an eminent person.” Merriam-Webster Online Dictionary, www.merriam-webster.com/dictionary/distinguished. The Petitioner provided printouts of online information about the schools. But the record does not explain how the information establishes the universities’ eminence, distinction, or excellence. For example, one printout shows the Egyptian school’s world academic rankings by various publications. The rankings, however, do not appear high enough to demonstrate the school’s possession of a distinguished reputation. *See Karim v. Allen*, No. 21-cv-2861-WJM-KLM, 2023 WL 4624896, *10 (D. Colo. July 19, 2023) (affirming USCIS’ finding that a petitioner did not demonstrate the “distinguished reputation” of a university for which she worked).

Because the record does not sufficiently demonstrate the universities’ qualifying reputations, the Petitioner has not met this evidentiary criterion. We will therefore affirm the Director’s finding.

The Petitioner has met one additional evidentiary criteria. But he remains one short of satisfying the required minimum for a final merits determination. *See* 8 C.F.R. § 204.5(h)(3).

III. CONCLUSION

The Petitioner has not met the evidentiary requirements for classification as a noncitizen with extraordinary ability. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.